REMARKS

This Amendment is submitted in reply to the non-final Office Action mailed on December 14, 2005. Claims 1-27 are pending in this application. Claims 17-27 are withdrawn. In the Office Action, Claims 1, 6 and 9 are objected to, Claim 14 is rejected under 35 U.S.C. §112, second paragraph, Claims 1-5 and 9-16 are rejected under 35 U.S.C. §102 and Claims 6-8 are rejected under 35 U.S.C. §103. In response Claims 1 and 10 have been amended, and Claim 6 has been canceled. This amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, the Patent Office requires Applicants to restrict the invention to one of three groups of invention: Group I (Claims 1-16), Group II (Claims 17-22) and Group III (Claims 23-27). Applicants elect, with traverse, Group I (Claims 1-16). Applicants reserve the right to file one or more divisional applications to the non-elected claims.

In the Office Action, Claims 1, 6 and 9 are objected to. In response, Claim 1 has been amended and Claim 6 has been canceled to address the informalities cited by the Patent Office. Further, Applicants respectfully submit that the objection to Claim 9 actually refers to the elements of Claim 10, which has been amended to address the informalities cited by the Patent Office. Accordingly, Applicants respectfully request that the objection to Claims 1, 6 and 9 be withdrawn.

In the Office Action, Claim 14 is rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Patent Office alleges that the phrase "demineralized whey or demineralized and lactose-free whey" lacks an antecedent basis. Applicants respectfully disagree and submit that the "demineralized whey or demineralized and lactose-free whey" are new elements that describe the types of "derivatives of milk origin," which has a sufficient antecedent basis in Claim 13. As a result, the rejection of Claim 14 because of a lack of antecedent basis is improper because Applicants are further limiting/qualifying the types of "derivatives of milk origin," which is the purpose of dependent Claim 14. Based on at least these noted reasons, Applicants believe that Claim 14 fully complies with 35 U.S.C. §112, second paragraph.

Accordingly, Applicants respectfully request that the rejection of Claim 14 under 35 U.S.C. §112 be withdrawn.

In the Office Action, Claims 1-5 and 9-16 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,084,295 to Whelan et al. ("*Whelan*"). Claims 1-5, 9-14 and 16 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,427,701 to Morley ("*Morley*"). Applicants respectfully disagree with and traverse these rejections for at least the reasons set forth below.

Applicants have amended Claim 1 to include the elements of Claim 6. Amended Claim 1 recites, in part, a frozen dessert comprising a mixture of sweetening agents having at least 90% of its weight selected from the group consisting of glucose, fructose, polymers of n molecules of glucose and combinations thereof, wherein n is an integer between 2 and 10, inclusive. For example, the polymers can represent from 10 to 50% of the weight of the mixture of sweetening agents, and the mixture of sweetening agents can constitute from 6 to 30% of the total weight of the composition. In contrast, Applicants respectfully submit that the cited references fail to disclose or suggest every element of Claim 1.

Whelan and *Morley* fail to disclose or suggest a number of elements of Claim 1. For instance, *Whelan* and *Morley* fail to disclose or suggest a frozen dessert comprising a mixture of sweetening agents having at least 90% of its weight selected from the group consisting of glucose, fructose, polymers of n molecules of glucose and combinations thereof, wherein n is an integer between 2 and 10, inclusive, as required by Claim 1. *Whelan* and *Morley* also fail to disclose that the polymers represent from 10 to 50% of the weight of the mixture of sweetening agents as required by the present claims. The cited references also fail to disclose that the total amount of the mixture of sweetening agents (e.g. mixture of glucose, fructose and/or polymers of n molecules of glucose) constitute from 6 to 30% of the total weight of the dessert composition as required by the present claims.

Applicants have surprisingly found that it is possible to reduce the proportion of fat in a frozen dessert without limiting the malleability of the dessert at the freezing temperature, for example, by using a mixture of sweetening agents of which at least 90% by weight comprises glucose, fructose and/or polymers of n molecules of glucose, n being an integer between 2 and 10 (inclusive) and the polymers constituting from 10 to 50% of the weight of the mixture of sweetening agents. Applicants observed that the presence, in the proportions indicated, of these

glucose polymers can make it possible to avoid or reduce the greasy taste of the frozen dessert. This result is favorable for the organoleptic qualities of the dessert, which avoids reducing its spoonable character and its capacity to be distributed by the nozzle of a pressurized container at the freezing temperatures.

The fact that the sweetening agents can comprise a mixture having from 10 to 50% of glucose polymers makes it possible to not only compensate for the reduction of the quantity of fat to be used in the composition of the frozen dessert according to the present invention, but also allow a modification of the nature of the fat. Indeed, it becomes possible to use, for example, as a mixture with fat having an onset of solidification temperature less than 0 °C, a certain proportion of fat having an onset of solidification temperature between 0 and 40 °C, which provides greater flexibility in the taste of the frozen dessert according to the invention. Further, it becomes possible to use whole milk as a source of proteins, for example, and no longer only skimmed milk as was the case in previously known frozen desserts because the fat in the milk can now partially replace the fat having an onset of solidification temperature of less than 0 °C.

It has been observed that it is possible to advantageously use, as glucose polymers, the polymer fraction, which exists in a glucose syrup containing from 30 to 40% by weight of glucose and less than 1% by weight of fructose. It has also been observed that the effect described above due to the glucose polymers can be reinforced by the addition of 1 to 5% by weight of dietary polyol(s), essentially glycerol and/or sorbitol, relative to the weight of the whole composition. Applicants have observed that, if the percentage of glucose increases in the composition, the frozen dessert obtained is more malleable.

The sources of glucose which may be used for the manufacture of the dessert according to the present invention can be, for example, standard glucose monohydrate, sucrose which has undergone acid hydrolysis (invert sugar) and glucose syrups. To obtain the more or less sweet taste of the dessert according to an embodiment of the invention, it is possible to modify the relative percentages of the various sources of sweetening agents in order to maintain the fructose at a sufficiently low level so that the taste is not too sweet and to maintain the glucose at a sufficiently high level in order to contribute to the malleability of the final product. As was previously indicated, the presence of glucose polymers in the mixture of sweetening agents is a factor which makes it possible to reduce the quantity of fat necessary for producing good malleability of the dessert according to the invention at the freezing temperature while

minimizing the sweet taste. These glucose polymers can contain from 2 to 10 molecules of glucose and the main source consists of glucose syrups, which makes it possible to obtain them. Depending on the origins of the various glucose syrups, the relative quantity of these polymers relative to the total weight of the glucose syrup can vary, as well as the distribution of the polymers in the whole polymer fraction.

For the reasons discussed above, Applicants respectfully submit that Claim 1 and Claims 2-5 and 9-16 that depend from these claims are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the rejections of Claims 1-5 and 9-16 under 35 U.S.C. §102 be withdrawn.

Claims 6-8 are rejected under 35 U.S.C. §103 as being unpatentable over *Whelan* in view of U.S. Patent No. 4,452,824 to Cole et al. ("*Cole*"). Applicants respectfully submit that the patentability of Claim 1 as previously discussed renders moot the obviousness rejection of Claims 6-8 that depends from Claim 1. In this regard, the cited art fails to teach or suggest the elements of Claims 6-8 in combination with the novel elements of Claim 1.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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